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5 **IN THE UNITED STATES DISTRICT COURT**
6 **FOR THE EASTERN DISTRICT OF CALIFORNIA**
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8 JOHANNA DICKERSON,

No. CIV S-03-1972-CMK

9 Plaintiff,

10 vs.

ORDER

11 COMMISSIONER OF SOCIAL
12 SECURITY,

13 Defendant.
_____ /

14 Plaintiff, who is proceeding with retained counsel, brought this action for judicial
15 review of a final decision of the Commissioner of Social Security under 42 U.S.C. § 405(g).
16 Pending before the court is plaintiff's request for attorney fees pursuant to 42 U.S.C. § 406(b)
17 (Doc. 34).

18 By stipulation and order filed on August 28, 2008, this matter was voluntarily
19 remanded for further proceedings pursuant to sentence four of 42 U.S.C. § 405(g). In accordance
20 with that stipulation, the parties then stipulated to an award of attorney fees under the Equal
21 Access to Justice Act (EAJA) in the amount of \$5,850.00. Upon further proceedings, plaintiff
22 obtained a partially favorable decision in which the administrative law judge found plaintiff was
23 disabled and awarded her retroactive benefits totaling \$77,346.00.

24 Plaintiff and her attorney entered into a fee agreement on September 4, 2003.
25 That agreement provided for a maximum amount of attorney fees equaling 25% of any past-due
26 benefits awarded in a favorable decision from the Social Security Administration. Counsel is

1 now requesting the court award attorney fees in that amount pursuant to 42 U.S.C. § 406(b).
2 Defendant filed a response to counsel's request indicating no opposition to the fee request.
3 Defendant submits that it appears plaintiff's counsel is entitled to fees under § 406(b).

4 Pursuant to Gisbrecht v. Barnhart, 535 U.S. 789 (2002), the District Court is
5 required to review a request for attorney fees to assure the reasonableness of the contingency fee
6 agreement and the amount of attorney fees counsel receives. The agreement entered into
7 between plaintiff and her counsel clearly indicates an agreement providing for an attorney fee
8 amount of 25% of any retroactive benefits she receives. Plaintiff was successful in obtaining
9 retroactive benefits in the amount of \$77,346.00. Twenty-five percent of that amount equals
10 \$19,336.50. That amount, less the amount plaintiff was awarded in attorney fees under EAJA of
11 \$5,850.00, equals the amount requested by plaintiff's counsel of \$13,486.50.

12 Counsel has provided the court with information concerning his normal hourly
13 rate and the number of hours expended representing plaintiff in this matter. He indicates he
14 spent 38.5 hours on this matter and his normal non-contingent rate is approximately \$500.00 per
15 hour. Counsel also outlined for the court his expertise in the area of Social Security. Given this
16 information, as well as the successful result obtained by plaintiff in obtaining retroactive benefits,
17 the court finds the amount of fees requested to be reasonable.

18 Good cause appearing, IT IS HEREBY ORDERED that plaintiff's motion is
19 granted and counsel is awarded a net payment of \$13,486.50 in attorney's fees in accordance
20 with 28 U.S.C. § 406(b)(1)(A).

21
22 DATED: December 5, 2008

23 
24 **CRAIG M. KELLISON**
25 UNITED STATES MAGISTRATE JUDGE
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